



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

Mae Sue Green,

Plaintiff;

v.

Magnolia Hill, LLC, d/b/a
Riverwalk Casino and Hotel;
Churchill Downs Incorporated
d/b/a Riverwalk Casino and Hotel;
and John Does 1-10,

Defendants.

Civil Action No. 3:17cv51DPJ-FKB

**Defendants' Notice of Removal to
Federal Court**

INTRODUCTION

According to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Magnolia Hill, LLC, d/b/a Riverwalk Casino and Hotel and Defendant Churchill Downs Incorporated d/b/a Riverwalk Casino and Hotel give notice that they have removed the following civil action on the basis of diversity jurisdiction from the Circuit Court of Warren County, Mississippi, to the United States District Court for the Southern District of Mississippi, Northern Division:

Mae Sue Green v. Magnolia Hill, LLC, d/b/a Riverwalk Casino and Hotel; Churchill Downs Incorporated d/b/a Riverwalk Casino and Hotel; and John Does 1-10; Civil Action No. 17, 0004-CI (MEC No. 75CI1:17-cv-00004).

Removal is proper because there is complete diversity between the parties, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

BACKGROUND OF REMOVED CIVIL ACTION

On 1/9/17, Plaintiff Mae Sue Green filed Civil Action No. 17, 0004-CI (MEC No. 75CI1:17-cv-00004) in the Circuit Court of Warren County, Mississippi, styled: *Mae Sue Green v. Magnolia Hill, LLC, d/b/a Riverwalk Casino and Hotel; Churchill Downs Incorporated d/b/a Riverwalk Casino and Hotel; and John Does 1–10*.¹

The Complaint alleged that on 2/7/14, Green tripped and fell while walking on a sidewalk at Riverwalk Casino in Vicksburg, Mississippi.²

COMPLETE DIVERSITY EXISTS BETWEEN THE PARTIES

Green alleges she is an adult, resident citizen of Rankin County, Mississippi.³

For purposes of diversity jurisdiction, the citizenship of a limited liability company is determined by the citizenship of all its members.⁴

Defendant Magnolia Hill, LLC, is a foreign, limited liability company organized under the laws of Delaware. The sole member of Defendant Magnolia Hill, LLC, is HCRH, LLC.

HCRH, LLC, is a foreign, limited liability company organized under the laws of Delaware. The sole member of HCRH, LLC, is Defendant Churchill Downs Incorporated.⁵

¹ Compl., Jan. 9, 2017, Ex. 1.

² *Id.* ¶¶ 8, 10.

³ *Id.* at ¶ 1.

⁴ *E.g., Harvey ex rel. Harvey, v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008).

⁵ Defendant Churchill Downs Incorporated is improperly referred to as “Churchill Downs Incorporated d/b/a Riverwalk Casino and Hotel” in Green’s Complaint. In addition, Churchill Downs Incorporated is an improper party this lawsuit. Defendant Churchill Downs Incorporated reserves all relief available to it as a result of being improperly

Defendant Churchill Downs Incorporated is a foreign corporation organized under the laws of Kentucky with a principal place of business in that state.

For purposes of diversity jurisdiction, Defendant Magnolia Hill, LLC, and Defendant Churchill Downs Incorporated are citizens of Kentucky. Green alleges she is a resident citizen of Mississippi. Under 28 U.S.C. § 1332, complete diversity of citizenship therefore exists between Green and Defendant Magnolia Hill, LLC, and Defendant Churchill Downs Incorporated.

**AMOUNT IN CONTROVERSY EXCEEDS \$75K
EXCLUSIVE OF INTEREST AND COSTS**

It is facially apparent from Green's Complaint that the amount in controversy exceeds \$75,000, exclusive of interest and costs. The Complaint states that the amount in controversy exceeds \$200K, exclusive of interest and costs.⁶

In addition, the Complaint asserts a claim for an unspecified amount of punitive damages.⁷ Mississippi federal courts routinely hold that a claim for an unspecified amount of punitive damages under Mississippi law exceeds the amount necessary for federal jurisdiction.⁸

referred to in Green's Complaint and as a result of being wrongfully named as a party Defendant in this lawsuit.

⁶ Ex. 1 ¶ 5. The Complaint alleges a circuit court has subject-matter jurisdiction where the amount in controversy exceeds \$200K. Although that is an incorrect statement of law, the fact the Complaint alleges the amount in controversy exceeds \$200K, exclusive of interest and costs, makes it facially apparent that the jurisdictional threshold has been met for purposes of the amount in controversy.

⁷ Ex. 1 ¶¶ 34-35.

⁸ *E.g., Consecro Fin. Servicing Corp. v. Kolb*, No. 1:01CV476-D-A, 2002 U.S. Dist. LEXIS 25210, at *18 (N.D. Miss. Apr. 15, 2002) (citing *St. Paul Reinsurance Co. v. Greenberg*, 134 F.3d 1250, 1255 (5th Cir. 1998)).

The amount in controversy therefore exceeds \$75K, exclusive of interest and costs. The Court has original jurisdiction according to 28 U.S.C. § 1332(a)(1), and the action may be removed under 28 U.S.C. §§ 1332, 1441, and 1446.

TIMELINESS OF REMOVAL

Green served CT Corporation System, Defendant Magnolia Hill, LLC's and Defendant Churchill Downs Incorporated's agent for process, with a copy of the Summons and Complaint on January 18, 2017. Thirty days have not elapsed since Defendant Magnolia Hill, LLC, and Defendant Churchill Downs Incorporated were served with process, and removal is timely under 28 U.S.C. § 1446(b)(1).

VENUE

Venue properly rests in this Court under 28 U.S.C. § 104(b)(1) because according to 28 U.S.C. § 1441(a), the case is being removed from the Circuit Court of Warren County, Mississippi.

COPY OF STATE COURT PROCEEDINGS

Defendant Magnolia Hill, LLC, and Defendant Churchill Downs Incorporated will submit a true and correct copy of the certified record of proceedings from the Circuit Court of Warren County, Mississippi, within 14 days according to 28 U.S.C. § 1446(a) and L.U.Civ. R. 5(b).

NOTICE TO STATE COURT

Defendant Magnolia Hill, LLC, and Defendant Churchill Downs Incorporated will file a true and correct copy of this Removal Notice with the Circuit Court of Warren County, Mississippi, and effect removal to this Court. Under 28 U.S.C. §

1446(d), no further proceedings must occur in the Circuit Court of Warren County, Mississippi, unless or until this matter is remanded.

NOTICE TO STATE COURT

Consistent with 28 U.S.C. § 1446(d) and the attached Certificate of Service, Green is being provided with a copy of this Removal Notice.

CONCLUSION

Defendant Magnolia Hill, LLC, and Defendant Churchill Downs Incorporated request that this Court will receive and place on its docket this Removal Notice and that the Circuit Court of Warren County, Mississippi, will not proceed any further in this action unless it is remanded.

Respectfully submitted,

Defendant Magnolia Hill, LLC, and
Defendant Churchill Downs, Incorporated

Dated: 24TH of JANUARY,
2017.



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CERTIFICATE OF SERVICE

I, Blake D. Smith, certify that on this 24TH day of JANUARY, 2017, a true and correct copy of the previous document was served by U.S. mail, postage prepaid, and on the following:

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I also certify that a true and correct copy of the previous document was electronically filed on this same date in the Circuit Court of Warren County, Mississippi, using the MEC system, which sent notice to these same individuals.

Blake D. Smith
Blake D. Smith